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ABSTRACT

Prepared by the District of Columbia Street Law Project for its 14th annual city-wide mock trial competition, this instructional handout provides the material for a civil case over discrimination in housing. After the death of her husband, Cindi Kaufman, along with her infant son, moved in with her mother, Gale Kaufman, who owned a condominium at a complex regulated by the Rolling Hills Homeowners Association. Because of its "adults only" policy, the Association instructed Gale Kaufman to either remedy the situation or move out. Gale Kaufman claims that the rule is arbitrary discrimination. The handout clarifies the laws and explains the legal precedents. As evidence, the handout provides charts of Rolling Hills operating expenses; a crime report for the complex; and witness statements from Gale Kaufman, Cindi Kaufman, an expert on the housing market, residents at Rolling Hills, and a real estate agent. Through participation in mock trials and analysis of the activity, students gain an insider's perspective on courtroom procedure and a basic understanding of the legal mechanism through which society resolves its disputes. Mock trials develop critical analysis, questioning and listening skills, and skills in preparing and organizing materials. (JD)

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1985 STREET LAW MOCK TRIAL MATERIALS

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Statement of Facts for 1985 City-Wide Mock Trial Competitions



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SO 024665

IN THE
SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA

Gale Kaufman
Plaintiff

vs.

Rolling Hills Homeowners Association
Defendant

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No. MT-85

Stipulated Facts

The Rolling Hills complex was constructed in 1956 by D & G Developers, Inc.. The complex consists of twenty buildings. Each bulding has twenty-four units.

Rolling Hills was operated as an apartment complex until 1977, when the developers converted it to condominiums. Since its conversion, each unit has been owned individually. Today approximately 2/3 of the 480 condominium units are owned by their occupants. The remainder belong to "absentee owners" who rent out the properties. In addition to their units, each Rolling Hills owner also owns a share of the "common grounds" of the complex. These common grounds originally included:

- 1) parking lots;
- 2) the open space - grass, bushes and trees - surrounding the buildings;
- 3) two swimming pools - one olympic size, the other for children (2.5 feet deep) - and bathhouses, all in an enclosed area in the middle of the complex; and
- 4) a large "tot lot" - a play area for children with recreational facilities.

In 1978, an additional olympic size pool was built within

the complex. This pool is not enclosed. A lifeguard is present from noon to four on weekends during the summer and by special arrangement (usually by request of twenty or more residents) at other times. The tot lot was replaced by a fitness center with a universal, free weights, assorted other exercise machines, and a sauna. The fitness center is open twenty-four hours a day, but is supervised only during fitness classes which meet nightly from seven to nine.

Each owner pays for the maintenance of these "common grounds" and, where necessary, for supervisors to oversee the recreational activities.

As a condition of ownership in the Rolling Hills complex, each owner is required to join the Rolling Hills Homeowners Association. Among many other things, that group manages the common grounds; raises money - through Association dues - to pay for maintenance costs; and sets the rules and regulations for ownership and residence in the Rolling Hills complex. The Association is a licensed business of the District. It is empowered - by its charter and by the laws of the District - to perform all of the activities cited above.

The homeowners in each building elect a representative to the Homeowners Association, (each owner gets one vote per unit owned). The building representatives meet quarterly - on January 15, April 15, July 15, and October 15; the officers (a president, treasurer and secretary) meet monthly, on or about the 1st of each month. In addition, the building representatives, the officers, or the general body of homeowners (by petition of at

least fifty owners) may call emergency meetings at any time. Most of the actions taken by the representatives or the officers involve administrative tasks, e.g., paying bills, hiring maintenance or supervisory staff, etc. Any actions that change the general rules of ownership or residence among the homeowners must be unanimously approved by the general body. Actions involving specific residents or owners which enforce - but do not change - the general rules of ownership or residence may be taken by the building representatives. Thus, for example, a regulation barring pets in the complex would have to be approved by all of the homeowners. If the regulation was approved, it could be enforced against a specific homeowner by majority vote of the building representatives. This process conforms to the requirements of District law.

In 1977, when D & G Developers converted Rolling Hills apartments to a condominium complex, they decided to make Rolling Hills an "adults only" community. The deeds to each condominium unit included the following restriction:

No person under the age of twenty-one years shall be permitted to reside in Rolling Hills.

As a concession to the tenants of the Rolling Hills apartments whom D & G hoped would buy their units, the deed provided a special exception for current residents:

This restriction shall apply purely prospectively, and shall not be applied to bar residence by those persons under twenty-one years of age who are residing in Rolling Hills as of January 1, 1977.

Both provisions appear in every condominium deed for Rolling Hills. The deed authorizes the Rolling Hills Homeowners Association to enforce the "adults only" and all other regulations, but does not specify the penalties for violation of the "adults only" restrictions.

Gale Kaufman has lived in Unit 3-A of building 4519 since 1960 and has owned unit 3-A of building 4519 since its conversion in 1977. On January 1, 1977, the Kaufmans were residing in 3-A with their eleven-year-old daughter, Cindi (born June 29, 1965). Together with the rest of the homeowners, the Kaufmans indicated their approval of the "no children" restriction by signing their deed. The Kaufmans were correctly advised by D & G's attorneys that the restriction did not bar the continuing residence of Cindi Kaufman.

In June, 1982, Cindi Kaufman married Eric Joseph. The couple moved to Dallas, Texas where, on June 14, 1983, their son William Harold Joseph was born. On December 31, 1983, Eric Joseph was returning home after a late night at work. He was carrying a bottle of champagne to celebrate the New Year with his wife. Less than a mile from his house, Eric's car was hit head-on by a pick-up truck. Tests later showed that the driver of the pick-up was drunk. Eric was dead on arrival at Riverside Hospital in Dallas shortly after midnight.

On January 5, 1984, Cindi Joseph left Dallas and moved back to the District to reside with her parents. She has lived in Building 4519, Unit 3-A, of the Rolling Hills complex since that date. Her infant son William resides with her at that address.

On October 15, 1984 at the meeting of the Building Representative of the Rolling Hills Homeowners Association, Pat Sheridan, the representative of 4519, informed the Association that Cindi Joseph and her son were residing at the Kaufmans' in violation of Rolling Hills' regulations. By a vote of 9 to 7 (four representatives were not in attendance), the Association decided to give the Kaufmans a notice of violation and to allow ninety days for the Kaufmans to either remedy the situation or move out. The notice was delivered to the Kaufmans on October 20. Two days later, Pat Sheridan received a note addressed to "Building Representative, 4519." The note simply said "Give me a break" and was signed by Gale Kaufman. There was no additional formal correspondence between Kaufman and the Association.

Statement of Claim

This suit was filed by Gale Kaufman on December 3, 1984.

Kaufman is asking the court:

- (A) to declare that the "adults only" provision in the deed is violative of the District Civil Rights Act as a form of prohibited arbitrary discrimination against children;
- (B) to declare that the restrictive provision is null and void; and
- (C) to enjoin the Rolling Hills Homeowners Association from taking any action to enforce the "adults only" provision against plaintiff's family.

The defendant, Rolling Hills Homeowners Association, asserts the validity of the "adults only" provision in the deed as non-discriminatory. Defendant is asking the court:

- (A) to declare the "adults only" provision valid and in full force and effect;
- (B) to reaffirm the power and authority of the Homeowners Association to enforce the provision against plaintiff, who is allegedly in violation thereof; and
- (C) to grant defendant's counterclaim for possession of Unit 3-A of Building 4519.

The only issue before the Court is whether defendant's proposed action against plaintiff constitutes arbitrary discrimination.

Witnesses

For the Plaintiff:

1. Gale Kaufman, owner Unit 3-A, Building 4519
2. Cindi Joseph, mother of owner's infant grandson
3. Cory O. Garfield, expert witness

For the Defendant:

1. Chris Cole, President, Rolling Hills Homeowners Association
2. Pat Sheridan, Representative of Building 4519
3. Cameron B. Thomas, expert witness

Exhibits

The parties have stipulated to the authenticity of each of the following documents:

- A. Reported Crime - Rolling Hills Subdivision, 1975-1983
- B. Rolling Hills Condominium Units, Projected Property Values, 1977-1985
- C. Rolling Hills Operating Expenses, 1975-1983, by Thomas.
- D. Rolling Hills Operating Expenses, 1975-83, by Garfield.

In addition, the parties have stipulated that document A may be admitted into evidence without laying a foundation on the condition that testimony on the document be limited to matters within the personal knowledge of the witness.

Legal Authorities

"All persons within the jurisdiction of the District, no matter what their sex, race, color, religion, ancestry or national origin, are entitled to the full and equal accommodations, advantages, facilities, privileges or services in all business establishments of every kind whatsoever."

Section 116, District Civil Rights Act

Condominium complexes and their homeowner associations are both "business establishments" under section 116 of the District Civil Rights Act.

Harvey v. Elsmere Manor Maintenance Association, Inc. Dist. Ct. (1978)

"Section 116 of the Civil Rights Act identifies some examples of prohibited discrimination, i.e. discrimination based on 'sex, race, color, religion, ancestry or national origin.' This is just a partial list meant to illustrate - not limit - the types of discrimination that are prohibited. The Civil Rights Act is intended to prohibit all arbitrary discrimination by business establishments, whether or not the particular type is listed in section 116."

In re Griffith Dist. Ct. (1972)

"The Civil Rights Act does not prohibit all forms of discrimination. The Act prohibits only those forms which are arbitrary. A distinction is not arbitrary when it:

- (1) is reasonably related to protecting health, safety, economic or general welfare; and
- (2) does not cause unreasonable hardship for the person affected by the act of discrimination; and
- (3) does not cause unreasonable harm to the public interest.

Acts of discrimination which do not pass this three-pronged test are arbitrary and are prohibited by the Civil Rights Act."

Jones v. Kassouf Dist. Ct. (1976)

"The Civil Rights Act does not require an entrepreneur to tolerate customers who damage property, injure others, or who otherwise disrupt his business. A business establishment may promulgate department regulations that are rationally related to the services performed and the facilities provided."

Hayman v. Burger Queen, Inc. Dist. Ct. (1980)

The owner of a large apartment complex may be liable for negligence in the drowning death of a small child who wandered into an unattended, unenclosed swimming pool.

Fisher v. Maxwell Development, Inc. Dist. Ct. (1963)

Affidavit of Gale Kaufman, Witness for the Plaintiff

My name is Gale Kaufman. I live at 3-A, building 4519, in Rolling Hills. Fran and I have lived there since 1960. Our daughter Cindi lived there from June 29, 1965 until she got married in 1982.

She moved back with us after the accident last January. Now she's living there together with our grandson, William. He's about a year and a half old.

Cindi had been back with us for almost a year - 10 months to be exact - before we heard anything at all from the Homeowners Association. Out of the blue, we got a notice telling us we have ninety days to throw our daughter and grandson out, or move. At first I thought it was just Pat Sheridan being a nuisance, so I called Chris Cole, the president of the Association. Chris said that unfortunately, it was for real. I didn't know what to do. Cindi called Professor Garfield, who put us in touch with a lawyer. The lawyer said that discrimination like this is illegal; so, here we are.

I knew all along the Coles were out to get us. I'm just surprised it took them this long. Dr. Cole never was much of a fan of working class people, he always wanted this to be a "professional community."

I'm real disappointed that Chris turned out to be the same. Chris was a good kid - real nice to us, and a true friend to Cindi. It's funny, but it was Chris - and the other people around Rolling Hills that we'd grown so close to - that persuaded

us to stay on when the complex went condo back in '77. We really didn't have the money to invest in real estate, but we didn't want to leave. So we found a way to raise the down payment, and settled in for life.

As for the deed, of course we signed it. There was no reason not to. The D & G people told us the "no kids" stuff did not apply to people like us who were already living here. That seemed easy enough; there was nothing to worry about.

When Cindi came back from Dallas, we never really intended for her to stay. She's grown up now, and needs a place of her own. But while she was getting her feet on the ground, we wanted to help. It really hasn't been much of a burden on us. Fran's disabled, and has been since 1975, so Cindi's a big help around the home. And when she gets work, we know she'll help with expenses. Maybe she could even go back to school. And of course, William is a joy. It's no trouble taking care of that one. After all, he's our grandson.

When it seemed Cindi might be staying longer, I went around and checked with the neighbors, to make sure it would be all right. Everyone in the building said it was fine. They all knew Cindi, and knew she would never cause them any problems. And William's just a baby. What harm could he do?

Actually, one person did object: Pat Sheridan. Pat is not a happy person.

Ever since the kids left, Pat's had nothing but that mean, ugly dog and that lousy job as building rep. We all reelect Pat every year mostly out of sympathy. Even I vote for the old crank. But Pat has never forgiven us for reporting that nasty dog. The dog is a nuisance: it's loud, it's noisy, and it stinks. Once it attacked Cindi. It didn't bite her, but it scared her a lot. We had to write the Association a letter, telling them that Pat was violating the rules by not keeping the dog on a leash. It took about a dozen letters, but Pat did finally start using a leash.

I must admit, I get a little angry when I hear Pat telling everybody how much better things are at Rolling Hills now that all the kids are gone. It makes me mad because it's just not true. It's silly to say that we've saved money by not having kids here. I know my Association dues go up every year. And as for this nonsense about all the juvenile crime at Rolling Hills, I have just two things to say. First off, there may have been some bad kids here, but they weren't ours, and it doesn't seem fair to punish our family just because someone else couldn't control their kids. Second, there's no way you're going to convince me that there's less crime here now than there was ten years ago. Last year my car was stolen, and I know of four other people whose cars were stolen last year, too. Nothing like that ever happened when the kids were living here.

What makes me most angry is the terrible choice I'm being

forced to make. I can either give up my home, or break up my family. That's a cruel choice. You know, I'm still shocked that this is being done to us. I still haven't looked for a place to move if they take our home away. I guess I still don't believe it could happen.

Affidavit of Cindi Joseph, Witness for the Plaintiff

My name is Cindi Joseph. Right now I guess I'm living with my parents at 4519, 3-A in Rolling Hills. I have a son, William Harold. He'll be two years old in June.

I grew up at Rolling Hills. I left in June 1982 when I married Eric Joseph.

We moved to Dallas where William was born. William was just 6 months old when he lost his father. It was New Year's Eve, 1983, when Eric's car was hit head-on by two drunk kids in a pickup truck. Eric died just after midnight.

I came back to Rolling Hills just a few days later. I didn't really have anywhere else to go. I still don't. You would think I'd have some money coming to me after Eric's death. Well, the money from the life insurance policy just about paid for the funeral and our moving expenses. Eric hadn't worked long enough to qualify for a pension. The people he worked with did start a fund to help people like me, but it's not much. It was a wonderful gesture, and it meant a lot to us - but it won't pay the bills. I applied for Social Security survivors benefits, but they gave me a "song and dance" about Eric only working three quarters instead of four or something like that. Anyhow, I've appealed their decision, but the lawyer says it could take years to settle my claim. And I've looked all over for work, but I'm not real marketable. All the honor rolls in the world don't help if you don't have a degree. High school dropouts are not in great demand in the modern labor market, and there's no special

exception for widows with children. It's funny, I was going to be a doctor. Now I can't get a job at all.

It hasn't been any easier trying to find a place to live. I'll bet I've called a hundred apartments since I've been back. It really shocked me, but most places aren't letting in kids any more. When I tell them my boy is only two, they just laugh. "All the more reason, honey", is what they say. A few places were willing to let in kids, but the rents were high. Mom and Dad may have been able to help me out, but they never really got the chance. When the landlords find out that I don't have a job or a steady source of income, they always nix the deal. The only other thing I could think of to do was get a job as a live-in domestic. I placed ads everywhere but no go, not with a child.

I really don't see why I can't stay here. I'm not asking for any special favors, just a little tolerance. I don't need any special facilities here for William. After all, things haven't changed that much here since when I was a kid.

Rolling Hills was fine then, and it will do fine now. And William will not cause anyone any trouble. He's not noisy, and he's not real mischievous. He's really a good boy. My folks and I wouldn't have it any other way.

I know there have been some problems with kids here in the past. But it was just a few troublemakers. I knew the kids who used to party all night at the pool. Nearly all of them left when the place went condo back in 1977. I was never one of the

troublemakers, and my son won't be one either.

It seems to me that the only real problem is Pat Sheridan. I remember Pat Sheridan from when I was little, and the memories aren't fond ones. Pat Sheridan is one of the nastiest people in the world. That's why the Sheridan apartment was always our favorite target at Halloween. And that dog - if there is anything in the complex that disturbs the peace and quiet it's that ugly old mongrel. It barks all day and all night. It's a wonder my baby ever gets any sleep. The dog attacked me and almost bit me when I was younger. If that dog ever comes near my boy, so help me I'll have it destroyed.

There's one last thing that's been bothering me a lot lately. I keep hearing all this talk about how we need to preserve the family and traditional values. Well here we are - a family just trying to stay together - and just look at what they're doing to us. It makes me wonder - what are these traditional values that are so important? It seems to me that they don't have anything to do with the family at all. Selfishness, greed, and discrimination -- maybe those are the real traditional values.

Affidavit of Cory O. Garfield, Witness for the Plaintiff

My name is Cory Garfield and I am a Professor of Economics at District State University. I have been teaching at the University for the past twenty-four years. Prior to that, I held a number of executive positions with assorted Wall Street business firms. In addition to my teaching duties, I perform consultant services for a variety of non-profit or governmental groups. My primary area of interest and expertise is the housing market, or more particularly, contemporary trends in housing sales and rentals. I was educated at Roosevelt College - where I earned degrees in sociology and economics - and at Capital University where I earned my masters and doctorate degrees in sociology and - from the Galbraith school of business - my M.B.A. As for my publications, I suppose the most relevant would be the book I wrote in 1983 titled "Age Discrimination in Housing: Subverting our Traditional Value" and the 1984 study I conducted on housing discrimination in the District.

You should know that I learned of this case by a most extraordinary coincidence. Eric Joseph, the late husband of the Kaufman's daughter, had been one of my students at D.S.U. He was an excellent student, and an outstanding young man. It was his mother who called me to inform me of his death. She asked if I could look out for his young widow. Ms. Joseph called me in November with the news of the Association. Of course I offered to assist Ms. Joseph in any way I could.

There are three points that I feel must be made on Ms.

Joseph's behalf. First, I've heard and read a good deal about how these marvelous "adults only" communities produce such savings for the homeowners. It is, in a word, rubbish. I have seen no studies which demonstrate with any authority that property values rise or maintenance expenses fall in areas that exclude children. Just look at Rolling Hills. As a part of my 1983 study on discrimination in the District, I examined a number of communities with "adults only" restrictions. Rolling Hills was one of the communities whose records I examined. It's worth noting that Rolling Hills expenses have tripled since they made their change. Get rid of that fancy sauna, and bring back the kids, and it is my best professional judgment that those expenses would decrease significantly.

Second, we've also heard a lot of nonsense about the rights of adults to live in a "child-free" environment. Well, we all have our pet peeves, and we'd all like very much if we could find some way to abolish those annoyances from our lives. For some of us, our pet peeve is loud dogs, and for others it is cats. Some of us don't like certain people - because of their race, or their religion, or their color, or their sex, or their politics. The point is that we can't categorically exclude an entire group of people on the grounds that we don't want them around. That is arbitrary and discriminatory. It is morally wrong, and against the best interests of our society.

Finally, I think it's easy to underestimate the difficulty

faced by Ms. Joseph in trying to find housing. According to a 1980 study I supervised for the U.S. Department of Housing and Urban Development, the vacancy rate for houses and apartments is about 1%; it is actually a bit lower in the District. Moreover, according to that study, a full 25% of all housing units completely bar children; more than 50% restrict the number or age of children allowed. In total, 76% of all housing has some form of anti-child restriction. Add to that the fact that Ms. Joseph has no source of income, no job, and - if the Kaufmans can't keep him - no way to provide care for her son William, and you get some sense of the magnitude of her problem.

One last note. I have read Cameron Thomas' treatises and analyzed them carefully. I am also well acquainted with Cam's "want ads" trick. I am afraid that I must say that in all of Cameron's work I still see the same sloppy thinking and the same moral insensitivity that caused Cameron Thomas to fail my economics courses some twenty years ago.

Affidavit of Chris Cole, Witness for the Defendant

My name is Chris Cole. I live at 4501, #1-A in Rolling Hills. I have been the president of the Rolling Hills Homeowners Association since 1980, when I replaced my father, the late Dr. Alan Cole.

I was at the building representatives' meeting on October 15. Pat Sheridan's position was clear: the Kaufman's were violating their deed, and either they or their daughter and her son had to go. I care about the Kaufmans, but I had to support Pat. Rules are rules, and we all have to live by them. I suggested we give the Kaufmans ninety days to work something out. The building reps supported that proposal by a vote of 9 to 7. We wrote up the notice, and had Pat deliver it.

Pat called me a few days later, complaining that the Kaufmans were sending harassing notes. I called them to see what the problem was. I had to explain to Gale that the Association was serious. I apologized, but there wasn't much I could do. It's sad, but I haven't talked to Cindi or the Kaufmans since then.

Really, it's not hard to understand how the people here feel. Over the years, we've had some real problems with the kids in this complex. My father used to tell me about some of the horrible things that kids did to the older residents in particular: smashing their apartment windows, banging on their doors at all hours, making harassing phone calls. He told me about one old woman whose apartment door was set on fire, and

another who was attacked twice in a week. I still shudder when I think of those poor people living their last days in absolute terror.

I know from growing up here that the kids could be pretty thoughtless. We all did some pretty stupid things, like playing basketball in the hallways or baseball in the parking lots, all without any regard to the noise we were making or the property we were destroying. Other kids did worse stuff: I remember watching a friend of mine slash some guy's tires on Christmas eve, just because the guy was on his paper route and had not given him a Christmas tip. Kids used to have all-night parties at the swimming pool, with alcohol, drugs and all sorts of carrying on. It's a wonder no one ever drowned. I never did this kind of thing myself. My father would have killed me. But I saw it all, and I knew most of the kids who were involved. It was usually the same crowd, and they made life real unpleasant for most of the people who lived here.

We haven't had any of these problems since we became an "adults only" complex. I haven't heard a single complaint about unruly juveniles in the entire time I've been president. Our crime rate has gone way down since we made the change. I asked the police to send me some data on the reported crime at the complex. I wanted to know what had happened in the four areas that I believed had been our greatest problems. Frankly, I couldn't believe the results. I had to set up a meeting with the

officer who prepared the data. She explained the numbers in some detail and confirmed my initial conclusions. The bottom line - as you can see from the report the police sent me - is that crime in Rolling Hills is only 1/4 of what it was in 1975.

There's another factor to consider here: cost. I don't think we could afford to have the children back here even if we wanted them. We no longer have the facilities we would need for children - nothing for their recreation, and nothing for their protection. It would cost us a fortune to build a recreation facility, and to fence in the pool, the parking lots, and the fitness center. We'd have to hire all sorts of new personnel: security guards, recreation staff, maintenance people - all to keep the kids from hurting themselves, other people, or our property. Our costs are high enough as they are. Cam Thomas says they'd be twice as high if we bring back the kids.

One last thing. Running through those numbers like that probably makes me sound callous. Believe me, I'm not. I care about the Kaufmans, and Cindi and her son. And I certainly don't have anything against children. My niece and nephew spend one weekend a month with me and it would be more if my brother would let them. And someday, God willing, I'll have children of my own. So it's not that I'm hardhearted. The thing is, I can't afford to be sentimental. I have a job to do. The people of this community decided they wanted an "adults only" complex. I understand their point of view, and as their president, I will support it.

Affidavit of Pat Sheridan, Witness for the Defendant

My name is Pat Sheridan. I'm sixty-eight years old and I've been living in 2-A of building 4519 ever since it got built. I've also been the building representative the whole time, so I know how things work and I know all about this mess in particular.

Let me tell you a little something about myself. First off, I like people - kids especially. I had three of my own and when they grew up I was taking care of their kids. Even now I work with the Sunday school class, when I'm able.

I got nothing against the Kaufmans or the children. I like them as much as anyone else. But I've worked all my life - over fifty years in fact - and a person gets kind of tired after all that. Physically, I'm not what I used to be. Sometimes it's painful just to get out of bed in the morning. I got old Arthur - you know, Arthur Itis - all through my joints and in my back, and he doesn't wait for any invite before he comes to visit. So sometimes, I'm kind of hurting.

Mentally, I get wore down fast. I can't stay with things the way I used to. If my eyes hold up, my mind takes off; and when my mind's on track, it's my hearing that goes. Sometimes I get kind of scatterbrained, and sometimes I guess I lose my patience quicker than I used to. It's not meanness - just being tired.

Sometimes, I like to have company. Sometimes, I'd just as soon be left alone. I read when I can, and I walk the dog when I

can, and I listen to my Earl Grant records when I can. But sometimes I can't do any of that. Sometimes I'm sore, and I just need my medicine, my heating pad, and a place to lie down. Sometimes I'm just plain tired, and I need to have a nap. And there are times when it all kind of catches up with me, when peace and quiet are my only salvation.

I like things the way they are now - without children. Part of it is the money. I can't afford to be paying more and more money on homeowner's dues, especially when I know its just going to fix up some things some kids tore up. When kids smash up the fitness center, we all have to pay to get it fixed. When kids tear up the lawn, we all have to pay the landscaper. We had one kid here back in '75 who thought it was fun to burn things up: trash cans, trees, even buildings, she set them all on fire. The police finally caught her and the family moved out. I don't see why I should have to let kids like that back in.

Part of it is just being safe. I was mugged twice - once in '74, and once in '77. Both times they got me from behind; they were too cowardly to show their faces. And both times, they waited until I was out alone, without my dog Ike to protect me. We never caught the kids that did it, and we never found the stuff they stole. I don't mind telling you that it scared me plenty. Even now, I won't go out unless Ike is with me. If we let those kids back in the complex, I guess I won't go out at all.

I don't want to have to be afraid again. I don't want to listen to screaming babies and yelling mothers. The sound of children playing is a joyful sound, but when you're hurting and you're tired it's just loud noise. I've heard the Kaufmans' grandchild crying at all hours. It wakes me up and keeps me up - and at my age I don't think I should have to put up with that. I don't want to listen to Cindi's music any more. For the past six months I couldn't tell if we were having thunder storms or if it was the stereo upstairs. That music gets Ike to barking, and it's hard to stop him. Why should I have to put up with the aggravation?

And I know its not just this one little baby. If this baby is allowed in, then others will be too, and soon we'll be right back to where we started.

Back in October, when I reported what was happening at the building reps meeting, somebody at that meeting asked me where the girl would go if we asked her to leave. I told them it was right nice of them to care about that. We all should care, I said, and we should do our very best to help her find a place. But how about me, and all the people here like me. Shouldn't we be allowed to stay in our own homes and live by the rules we made? And if not, I said, where will we go?

Nobody's answered that yet. I don't want to spend my last good days in a nursing home. I don't want to be a burden on any of my children. I just want to enjoy my life here, in my own

home. I wish someone would tell me what a person's got to do to earn that right.

Affidavit of Cameron O. Thomas, Witness for the Defendant

My name is Cameron O. Thomas. I live at 220 Birch Avenue here in the District. I am the owner and chief executive officer of Thomas Realtors. I am a graduate of District State University - with a B.A. in Economics - and of the Stockman School of Business, where I earned my M.B.A. I have authored numerous articles on management strategies for homeowners associations, including several articles on the financial and management advantages of the "adults only" complex. I consider myself an expert in the field of management strategies for homeowners associations.

I would like to stress at the outset that I have absolutely no financial interest in the outcome of this case. The Association retains my services for an annual fee of \$7500.00. For that sum, I prepare and oversee the Association's annual operating budgets, and coordinate the sales of all Rolling Hills units to ensure protection of the highest property values. Some units are sold through my agency, others are referred out. Though I normally charge an additional fee for expert testimony in litigation, I have already advised the Rolling Hills Association that I would accept no additional money for testifying in this case.

I first became interested in the "adults only" concept when I was working on my M.B.A. It occurred to me that such areas would fill a real need: a place where young professional adults and older adults of some means could live without sacrificing the

independence of a child-free environment. I have never harbored any personal dislike toward children. In fact, I've got three of them myself. But I do believe that the presence of children, whether they are your own or someone else's, seriously curtails your freedom. It seemed to me that adults should be able to escape these restrictions imposed by children without having to live in a swinging singles high-rise or a depressing old nursing home.

Over the years, I've done over two-dozen studies to see whether this notion - which had considerable ideological appeal - was financially viable. Each study confirms the same two conclusions. First, management expenses - maintenance, insurance, and the like - invariably decrease when complexes switch to "adults only". Second, property values invariably increase when the switch is made. I have analyzed close to three hundred instances of such change. These two rules hold true in about 90% of the cases.

In 1977, I prepared some projections for D & G. You can tell from a quick glance that only one conclusion was possible: D & G could guarantee top dollar for its properties only by restricting residence at Rolling Hills to adults. Now I haven't done a comprehensive study to see if my projections were exact. That kind of study is not a part of my consultant agreement with Rolling Hills. But I can tell you this: in 1984, I handled the sales of 12 individual units at Rolling Hills, and the average

sale price was over \$75,000.00. That's double my 1982 projected sale price for Rolling Hills units without the "adults only" restriction.

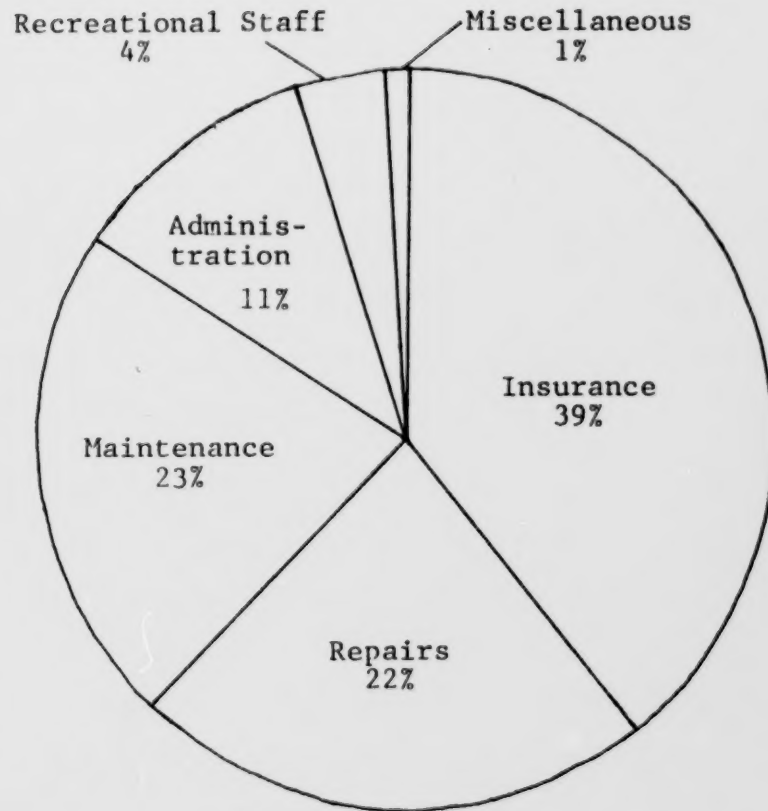
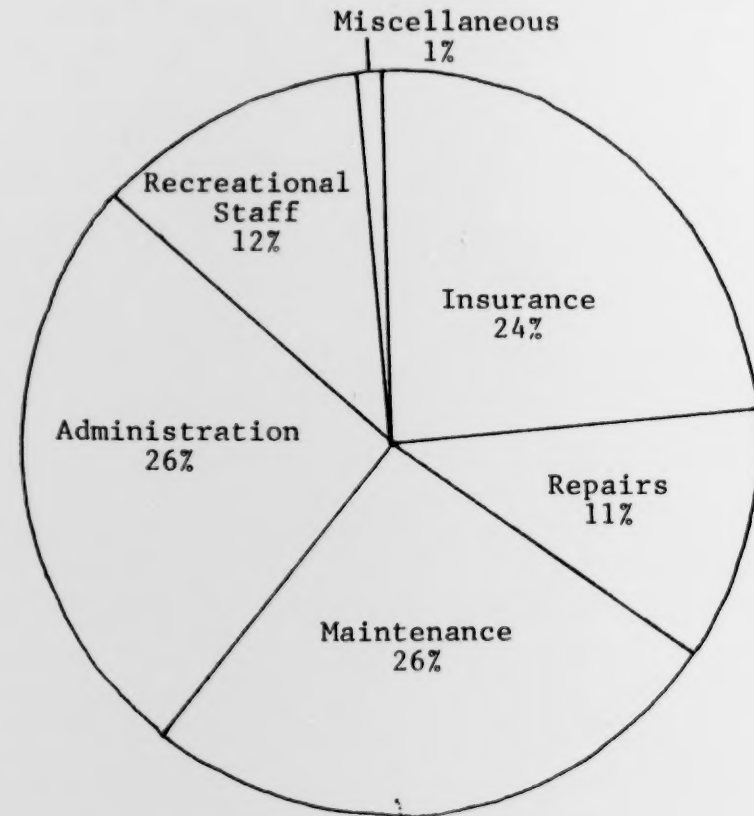
The data on Rolling Hills' management costs is also significant. In 1975, 22% of Rolling Hills' operating expenses went to repairs; in 1983, only 11% of the dues was spent on repairs. In other words, since they adopted the "no children" policy, they have cut their repairs expenses in half. Also, in 1975, insurance ate up close to 40% of their costs; in 1983, it was less than 25% of their budget. So, in a time when insurance costs are sky-rocketing, they've actually been able to cut costs thanks to their "no children" policy. In my opinion, their total operating costs would now be in excess of \$250,000.00 a year if they were not operating as an "adults only" community.

Three additional factors need to be weighed in the balance. First, there is more at stake here than just money. The whole lifestyle of the Rolling Hills homeowners is at stake. Second, the Kaufmans have been enjoying the benefits of the restriction all these years. They've been saving money and living in peace and safety along with everyone else. Its difficult to see where they have any special right to destroy it all. Third, no one is asking the Kaufmans to do the impossible. I've made it a point to check the classified sections lately. Over the course of the last two weeks, there has been an average of 175 vacant single-bedroom apartments in

the metropolitan area. As a realtor, I'm beseiged with requests every day from landlords who want to rent out their apartments. If Ms. Joseph is having a tough time finding a place, just send her around. I'll even waive my commission.

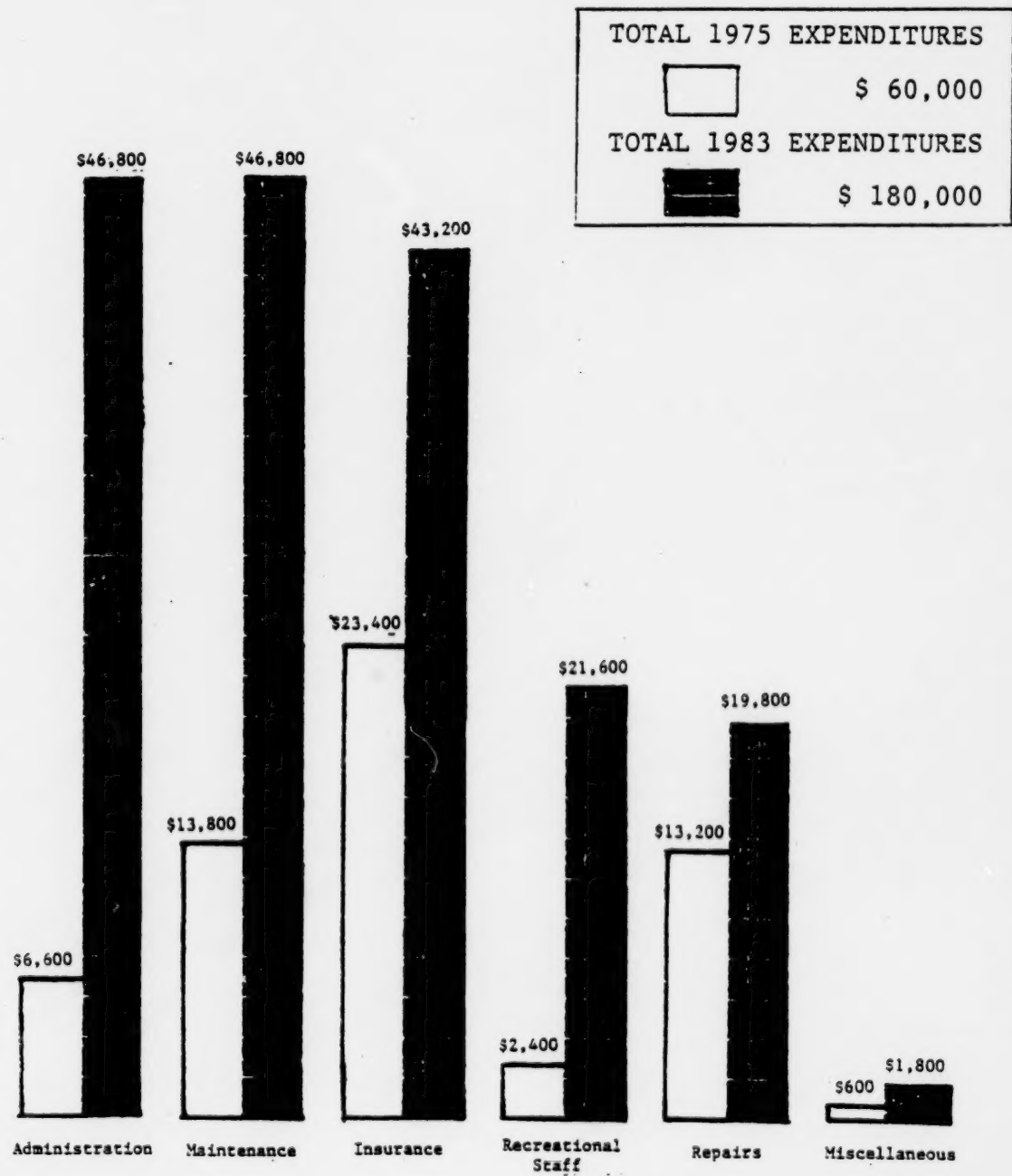
Rolling Hills Operating Expenses
1975 & 1983

THOMAS REALTORS

19751983

In percentage of total annual expenditures

Rolling Hills Operating Expenses
1975 and 1983



From Garfield, Housing Discrimination in the District of
Columbia (1984).

Reported Crime - Rolling Hills Subdivision

1975 - 1983

	Vandalism ¹	Theft ²	Assault ³	Arson	Total
1975	20	9	6	4	39
1980	2	7	1	1	11
1983	3	6	1	0	10

Notes

¹Prior to 1980, D.C.P.D. Crime Reporting Procedures required that all reported acts of mischief be reported as acts of "vandalism". Effective January 1, 1980, only acts resulting in damage to property in excess of \$25.00 are reported as acts of "vandalism".

²Includes all felony and misdemeanor thefts, but excludes auto theft.

³Prior to 1980, D.C.P.D. Crime Reporting Procedures required that all reported acts of domestic violence be reported as assaults. Effective January 1, 1980, acts of domestic violence are reported separately.

Prepared by: _____
L.D. Jones
Lieutenant, D.C.P.D.

Rolling Hills Condominium Units
Projected Property Values, 1975-1985

Projected market values of average, one bedroom units in
Rolling Hills Corporation.

	(actual value) 1975	1980	1985
A. with children	\$30,000.00	\$35,000.00	\$42,000.00
B. adults only	---	\$48,000.00	\$71,000.00

Prepared For: D & G Developers, Inc.

Prepared by: Thomas Realtors

Date: October 15, 1976

Cameron B. Thomas
President
Thomas Realtors